

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

HANS BRAKOB,

Plaintiff,

vs.

Civ. No. 01-248 WWD/DJS ACE

PINKERTON SECURITY and INTEL,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Defendant Pinkerton Security's Motion to Dismiss Pursuant to Rule 12(B)(6) or Alternatively to Stay all Claims by Plaintiff and Order Arbitration [docket no. 7]. The motion is not well taken and it will be denied.

Background

Plaintiff alleges that from 1996 until 1999 he was an employee of Pinkerton Security at Intel. He asserts that he was subjected to harassment and discrimination because of his German national origin. He filed a charge with the Equal Employment Opportunity Commission in 1999 and subsequently received a right to sue letter from the EEOC. Defendant Pinkerton contends that Plaintiff must submit his claim to arbitration because Plaintiff accepted the employee handbook containing a provision providing for arbitration.

Discussion

In Giola v. Pinkertons, Inc., et al., USDC No. CIV 00-1543, the Honorable Bruce D. Black entered a memorandum opinion and order dealing with essentially the same factual situation

as presented here. Judge Black's opinion is well reasoned and persuasive, and I adopt the reasoning as set forth in that opinion, a copy of which was attached to Plaintiff's response to the instant motion.

WHEREFORE,

IT IS ORDERED that Defendant Pinkerton Security's Motion to Dismiss Pursuant to Rule 12(B)(6) or Alternatively to Stay all Claims by Plaintiff and Order Arbitration [docket no. 7] be, and it is hereby, DENIED.


UNITED STATES MAGISTRATE JUDGE